

In the
Indiana Supreme Court



IN THE MATTER OF THE)
)
APPROVAL OF LOCAL RULES)
)
FOR WASHINGTON COUNTY)

Case No. 88S00-1108 -MS- 489

ORDER APPROVING AMENDED LOCAL RULES

The judges of the Washington Circuit and Superior Courts request the approval of amended local rules for the appointment of special judges in accordance with Ind. Criminal Rule 2.2 and Ind. Trial Rule 79. Attached to this Order are the proposed amended local rules.

Upon examination of the proposed rule amendments requested by the Washington Circuit and Superior Courts, this Court finds that the proposed rule amendments, LR88-CR2.2-4 and 5, and LR88-TR79-6 comply with the requirements of Ind. Criminal Rule 2.2 and Ind. Trial Rule 79, and accordingly, should be approved.

IT IS, THEREFORE, ORDERED by this Court that Washington County Local Rules, LR88-CR2.2-4 and 5, and LR88-TR79-6, set forth as an attachment to this Order, are approved effective retroactive to July 1, 2011, provided further that the rules shall be posted in the county clerk's office(s) and on the county clerk's website, if any, and on the Indiana Judicial Website.

The Clerk of this Court is directed to forward a copy of this Order to the Hon. Larry Medlock, Washington Circuit Court, 99 Public Square, #200, Salem, IN 47167-2098; the Hon. Frank Newkirk, Jr., Washington Superior Court, 801 Jackson Street, Salem, IN 47167-1218; to the Clerk of the Washington Circuit and Superior Courts; and to the Division of State Court Administration. The Clerk is also directed to post this Order on the Court's website.

The Clerk of the Washington Circuit and Superior Courts is directed to enter this Order and attachment in the Record of Judgments and Orders for the Courts, to post this Order and attachment for examination by the Bar and the general public, and if available, to publish this Order and attachment on the county clerk's website.

DONE at Indianapolis, Indiana, this 4th day of August, 2011.

RT Shepard
Acting Chief Justice of Indiana

LR88-CR2.2-4 – REASSIGNMENT OF CRIMINAL CASES

Except as set out in LR88-CR2.2-5, when a motion for change of judge has been granted in a criminal case, and in instances where a judge recuses or is disqualified, a special judge shall be selected as set out in LR88-TR79-6 from the following:

- (1) Crawford Circuit
- (2) Harrison Circuit
- (3) Harrison Superior
- (4) Orange Circuit
- (5) Orange Superior
- (6) Washington Circuit
- (7) Washington Superior
- (8) Senior Judges approved for the requesting Court

LR88-CR2.2-5 APPOINTMENT OF SPECIAL JUDGE IN CRIMINAL CASES BY INDIANA SUPREME COURT

In the event no judge is available for assignment or reassignment of a felony or misdemeanor case, such case shall be certified to the Indiana Supreme Court for the appointment of a special judge. In the event the judge presiding in a felony or misdemeanor case concludes that the unique circumstances presented in such proceedings require appointment by the Indiana Supreme Court of a special judge, the presiding judge may ask the Indiana Supreme Court to make that appointment.

LR88-TR79-6 APPOINTMENT OF SPECIAL JUDGES

- A. Selection of Administrative Judge.** On or before November 1st of each year, (or as soon thereafter as possible) the Judges of the Circuit and Superior Courts of Washington County shall meet in person or electronically with the presiding judges of Administrative District 24-for the purpose of selecting a judge who is designated as the Administrative Judge. The Administrative Judge shall serve for a period of twelve (12) months, ending December 31, or until a replacement is selected after December 31.
- B. Section H Appointments.** In the event it becomes necessary to appoint a special judge under Section H of Trial Rule 79 of the Indiana Rules of Trial Procedure or Indiana Rules of Criminal Procedure, the judge before the case is pending shall send notice of the need of the appointment of a special judge to the District's administrative judge who shall then make such assignment within five (5) days of receiving said notice.
- C. Method of Assignment.** The District's administrative judge shall select special judges from a roster of the available judges in the Administrative District. The assignments shall take into account the number of appointments required for each Court and the fact that current rules require that Special Judges in Criminal Cases serve in a contiguous county. The administrative judge shall maintain a record of all assignments and shall issue a summary report of the assignments on a quarterly basis
- D. Special Considerations.** If the Administrative Judge determines that newly selected Judges would benefit from a policy of "exchanging" cases to avoid excessive travel to multiple courts, assignments may be based upon these special temporary circumstances.
- E. Roster of Available Judges.** The roster of available judges in Administrative District 24 shall include senior judges as set out below:
- (1) Crawford Circuit
 - (2) Harrison Circuit
 - (3) Harrison Superior
 - (4) Orange Circuit
 - (5) Orange Superior
 - (6) Washington Circuit
 - (7) Washington Superior
 - (8) Senior Judges approved for the requesting Court

Appointment Order. Upon selecting a special judge, the administrative judge shall prepare an Order of Appointment and forward said Order to the judge before whom the case is pending who shall then sign and enter the Order of Appointment and forward a copy of the Order to the special judge and the attorneys of record.

F. Acceptance of Jurisdiction. The Order of Appointment, when entered by the judge before whom the case is pending, shall constitute acceptance of jurisdiction by the appointed special judge unless the judge is otherwise disqualified, and no special appearance, oath or additional evidence of acceptance shall be required. When one of the sitting Judges of District 24 accepts appointment as Special Judge through a different selection method, such as Supreme Court Appointment, stipulation by parties, or by striking, that Judge may ask the Appointing Judge to add these appointments to the record of assignments and consider such service in making additional appointments.

G. Form of Order. The Order of Appointment shall be in the following form:

IN THE _____ COURT FOR _____ COUNTY

STATE OF INDIANA

(Caption)

ORDER OF APPOINTMENT

Under the provisions of Trial Rule 79(H) of the Indiana Rules of Trial Procedure or the Indiana Rules of Criminal Procedure, the Honorable _____ of the _____ Court of _____ County is hereby appointed to serve as special Judge in the above-captioned case.

SO ORDERED THIS _____ DAY OF _____, _____.

Judge, _____ Court

Assigned this _____ day of _____, _____.

Administrative District # 24
Administrative Judge

- H. Implementation of Rule.** In the event a selected Judge does not accept an appointment to serve as a special Judge under the provisions of section (D), (E) or (F) of Trial Rule 79 of the Indiana Rules of Trial Procedure, the judge before whom the case is pending shall notify the assignment judge of the need for an appointment of a special judge under this local rule.
- I. Certification to Supreme Court.** If, under the provisions of this rule, no judge is eligible to serve as a special judge in a case, the assignment judge shall notify the judge before whom the case is pending who shall then certify such fact to the Indiana Supreme Court for the appointment of a special Judge.
If the judge before whom the case is pending is of the opinion that the particular circumstances of a case warrants selection of a special judge by the Indiana Supreme Court, said judge shall certify such facts to the Indiana Supreme Court for the appointment of a special Judge. Under such circumstance this Rule shall not be implemented unless the Indiana Supreme Court declines to appoint a special Judge.